

M21AAMOOS

Sentence

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

V.

18 CR 759 (RMB)

JAMES MOORE,

Defendant.

New York, N.Y.
February 1, 2022
10:00 a.m.

Before:

HON. RICHARD M. BERMAN

District Judge

APPEARANCES

DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

VLADISLAV VAINBERG

Assistant United States Attorney

MICHAEL GRUDBERG

Attorney for Defendant Moore

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1 (Case called)

2 THE COURT: So you recall that we began the sentencing
3 on November 9, 2021. There were some additional questions
4 raised and information to be submitted in writing which has
5 occurred. So that aspect of being able to continue is taken
6 care of.

7 Let me just ask at the outset, we're obviously not in
8 a courtroom in New York. We're having a video sentencing.
9 Mr. Moore is in Pennsylvania. Others are elsewhere. I just
10 want to know from defense counsel if you all have discussed
11 this? I'm pretty sure you have, with Mr. Moore proceeding in
12 this fashion and waiving any rights that Mr. Moore might have
13 to require that we have a sentencing occur in a S.D.N.Y
14 courtroom. And that is principally because of the difficulties
15 created by the COVID pandemic.

16 MR. GRUDBERG: We have discussed it, Judge Berman,
17 including in person in one of my visits to Philadelphia. I
18 think it would be appropriate to have Mr. Moore affirm that for
19 the record but it is my understanding that he is prepared to
20 proceed and waive his physical appearance.

21 THE COURT: Mr. Moore, is that correct?

22 THE DEFENDANT: Correct, your Honor.

23 THE COURT: And in my own view, I think if we delay
24 this further there would be harm to the interests of justice.
25 That's personal but it's your call ultimately, Mr. Moore, and

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1 you are okay with proceeding today by video conference?

2 THE DEFENDANT: I am definitely okay with it, your
3 Honor.

4 Thank you.

5 THE COURT: Okay. So, as you know, I think you all
6 know that the element or the criteria that we rely on in
7 sentencing are found at 18 U.S.C. Section 3553(A) and I've
8 reviewed those criteria and those factors several times now and
9 certainly before today. And they include the nature and the
10 circumstances of the crime or the offense, the history and
11 characteristics of the defendant, the need for the sentence
12 imposed to reflect the seriousness of the offense and to remote
13 respect for the law, to provide a just punishment, to afford
14 adequate deterrence to criminal conduct, to protect the public
15 from further crimes, to provide the defendant with needed
16 educational or vocational training, medical care, or other
17 correctional treatment in the most effective manner.

18 And just to interject there, another reason for the
19 postponement of the sentencing is so that Mr. Moore could
20 receive some medical care and that has occurred. I think that
21 took him to -- Well, I'll get to that in a moment. But that is
22 one of the reasons also this sentencing has taken somewhat
23 longer than we perhaps would have liked. We look at the kinds
24 of sentences available. We look at the kinds of sentence and
25 the sentencing range established under the sentencing

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1 guidelines. Those are no longer mandatory but we,
2 nevertheless, start with a guidelines calculation as a point
3 reference. We look at policy statements that may have been
4 issued by the United States Sentencing Commission. We seek to
5 avoid unwarranted sentence disparities among similarly situated
6 defendants and we need to provide for restitution.

7 So starting with the guidelines, my determination is
8 that the offense level in this matter is 38 and that the
9 sentencing guidelines range which is not mandatory just
10 advisory is 262 to 327 months of incarceration based also on a
11 criminal history category of two. The 38 number comes as
12 follows:

13 The base offense level is seven. The total loss
14 enhancement is plus 22. There's an additional enhancement for
15 substantial hardship to five or more persons.

16 I note that Mr. Moore would also qualify for a
17 two-level enhancement because the offense involved ten or more
18 victims. However, under United States Sentencing Guidelines
19 2B1.1 the Court is directed to impose the greatest enhancement
20 applicable in the case which is the four-level enhancement that
21 I just mentioned. Due to the substantial financial hardship
22 suffered by five or more individual victims.

23 There's a further enhancement plus two for substantial
24 part of the scheme occurring outside the U.S. and/or involving
25 sophisticated means. There's an additional enhancement of plus

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1 three for manager or supervisor and activity involving five or
2 more participants. So that is how I derive the 38. The
3 presentence report provides a two-level enhancement for
4 obstruction of justice in that in their own evaluation in that
5 Mr. Moore repeatedly according to probation lied to the
6 Securities and Exchange Commission, federal law enforcement
7 agents including stating that Jonathan Black was a real live
8 person. He was described as the CEO of Barworks, B-A-R, works,
9 W-O-R-K-S and also for lying to an IRS agent following his
10 arrest with respect to comments involving a separate investment
11 scheme.

12 With regard to the SDE statements, the defense objects
13 to this enhancement and argues that it was a voluntary
14 interview of Mr. Moore that he had had with the SEC while he
15 was in Spain. Defense counsel also argues that the statements
16 Mr. Moore made to the SEC were literally true in that
17 Mr. Haddow, H-A-D-D-O-W, said that Barworks' CEO was Jonathan
18 Black, and also that Mr. Moore never met Jonathan Black and
19 also that Mr. Haddow and his wife were the only executives in
20 place at Barworks.

21 The defense states that these statements had no impact
22 on any SEC investigation. And with respect to the IRS
23 statements the defense states that there was an initial
24 deception that he had not done anything for money since 2010
25 but that he did not deny an association with Barworks. Defense

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1 argues that none of the statements were sworn testimony in
2 addition.

3 So, I'm going to, and as you can tell by the
4 mathematical calculation I'll side with the defense with
5 respect to this enhancement discussed in the presentence
6 report, I'm going to deny it as not warranted.

7 With regard to the statements made to the IRS agent, I
8 note that the conversation was following his arrest on a
9 separate offense. And with regard to the statements to the
10 SEC, I'm giving Mr. Moore the benefit of the doubt in that I'm
11 finding that the defendant made false statements and/or
12 omissions to the SEC but that the defendant did not provide
13 materially false, in my judgment, statements to a law
14 enforcement officer that significantly obstructed or impeded
15 the official investigation or prosecution of the instant
16 offense as is required under Sentencing Guidelines 3C1.1.

17 Continuing:

18 According to the presentence report the total amount
19 of the fraud in this case is \$57,579,790, and that there were
20 811 investors who were identified and that the victims reside
21 in the U.S. and 60 other countries and or territories as found
22 in the presentence report at paragraph 50.

23 The Court also notes that its offense level and
24 guidelines calculations differs from that of co-defendant
25 Savraj, S-A-V-R-A-J. That's one name. Separate middle name,

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1 Gata, G-A-T-A, and family name, Aura, A-U-R-A, Savra Gata Aura.

2 The defense in its letter dated November 17, 2021,
3 argues that the differences that resulted from the government's
4 plea agreement with Savra Gata Aura, is neither fair nor
5 persuasive to account for a differential treatment.

6 My opinion is that there is significant difference
7 between Mr. Moore and Mr. Aura's case. As everybody's aware,
8 Mr. Moore was convicted following a jury trial and Mr. Aura
9 pled guilty before Judge Rakoff pursuant to a plea agreement.
10 I've calculated the offense level and the guidelines based upon
11 the facts and evidence as I perceive them.

12 I've taken into consideration in my example of my
13 determination of the appropriate sentence the advisory
14 guidelines calculations with respect to these two defendants,
15 that is, Mr. Aura and Mr. Moore as, for example, as you will
16 see, by imposing a below guidelines sentence in Mr. Moore's
17 case. So in considering the guidelines and all of the other
18 factors at 18 U.S.C. Section 3553(a) the following stands out:

19 During the course of this evaluation or this summary,
20 I will, in addition to adhering to the 18 U.S.C. 3553(A)
21 factors, also on occasion mention or discuss objections the
22 defendant has raised to the presentence report, if I don't
23 specifically mention one of those objections, the Court has
24 considered all of them and if it's not mentioned it's been
25 denied as without merit.

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1 Mr. Moore was found guilty, as I said before,
2 following a jury trial of conspiracy to commit wire fraud and
3 wire fraud. At the outset, the Court would like the record to
4 reflect that it is very familiar with the details of the
5 offenses as I presided over that jury trial in which case
6 Mr. Moore was convicted.

7 So just let me note here, and I will come back to them
8 later on, in addition to all the other submissions from defense
9 counsel and from the government and from the probation
10 department, many letters have been submitted to the Court from
11 victims in this case including one that, and this is a quote
12 from one of those letters, goes as follows:

13 "To those who make the decision or penalties that
14 Mr. Haddow and associates are assessed with, there are truly no
15 words that can articulate the depth of the devastation that
16 such a blow has brought to our lives. To simply find
17 Mr. Haddow and give a token sentence does not appeal by justice
18 to those of us who's very existence has been impacted by his
19 greed and avarice. If I live to be 100 as my mother,
20 grandmother, grandfather have, I would likely do so in
21 significant poverty because of these monsters who have no
22 conscience. My wife, the same. There are no words to help any
23 judge or jury feel the pain and darkness of deep depression
24 that such a loss causes."

25 I am going to refer to other of the letters later on.

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1 This is an important factor in sentencing which is to hear from
2 victims and that's, perhaps, a representative of a sample.

3 Mr. Moore is 60 years old. He's married and has four
4 adult children from two prior relationships. He's a citizen of
5 the United Kingdom and has a residency status in Spain.

6 Mr. Moore has a college education. He speaks conversational
7 French and Spanish. The defense has objected to the
8 presentence report classification of Mr. Moore as an illegal
9 alien although defendant entered, I assume, that is what the
10 presentence report is referring to. Although, I don't believe
11 that this is a big issue and it certainly is not in my
12 determination as to what the sentence should be. But I think
13 the facts are that Mr. Moore entered legally as a result of his
14 offenses and he is in the united states longer than he was
15 authorized to be here and as such, he does not have legal
16 status in the U.S. I guess. But as I say, I am just addressing
17 that concern. It's not of great significance to me in the
18 determination of the sentence.

19 Mr. Moore's wife remains supportive of him. As I
20 understand she's been living in Colombia for approximately the
21 past 18 months taking care of her ill and elderly father.

22 Mr. Moore maintains a good relationship with his sons and a
23 decent relationship with his daughter. Mr. Moore, I
24 understand, had a somewhat contentious divorce with a former
25 wife and as a result he no longer has a relationship with her

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1 three adult children who resided with them when they were
2 together.

3 Mr. Moore, as I alluded to before, but here in a
4 little more detail, has health issues to be sure including high
5 cholesterol, coronary artery disease, hyperlipidemia, chronic
6 obstructive pulmonary disease and mitral regurgitation, mitral,
7 M-I-T-R-A-L, regurgitation.

8 He also has suffered from mental health issues while
9 incarcerated and I referred to this a few minutes ago. This
10 led to his being transferred to FMC Devens, D-E-V-E-N-S --
11 that's a Bureau of Prisons facility -- for the purposes of
12 psychological, forensic examination.

13 He ultimately received a restorative treatment at FMC
14 Butner, B-U-T-N-E-R, and eventually placed in Philadelphia, the
15 BOP site in Philadelphia FDC Philadelphia, where he is today.

16 Mr. Moore has some substance abuse history that
17 includes alcohol. He participated in and completed an alcohol
18 rehab program in Arizona. Probation states that while
19 incarcerated Mr. Moore has not incurred any disciplinary
20 sanctions and while incarcerated he has completed programs.
21 Healthy Minds is one. Mind Strength is another. Introduction
22 To Drugs is another. At the time of the presentence report
23 that was being prepared, Mr. Moore was participating in a
24 gender equality program and a Personal Health Journey program.

25 Probation refers to the scheme that underlies the

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1 convictions here in which Mr. Moore participated as a Ponzi
2 scheme, to which the defendant objects to the use of the term
3 "Ponzi scheme". As evidenced during the trial these are the
4 facts as I saw them.

5 Mr. Moore and others solicited investors to invest in
6 ownership of office space called "Barworks", which would be
7 leased out to the public in exchange for a membership fee. The
8 investors of the spaces were guaranteed rental fees for the
9 spaces that were rented to the public. The investor owners
10 received their commissions from other investments. In the
11 Court's view this was a huge fraud. Whether you call it a
12 Ponzi scheme or something else, he was convicted of conspiracy
13 and fraud itself and that's certainly what happened.

14 The purported owner of Barworks was Jonathan Black.
15 But Mr. Black was a fictitious, not a real person. A man named
16 Renwick, R-E-N-W-I-C-K, Haddow, H-A-D-D-O-W, who was a
17 co-conspirator in this conspiracy could not appear on any
18 materials affiliated with Barworks because in the United
19 Kingdom he was banned from such affiliation for prior activity
20 and behavior. Mr. Haddow had served as a director of a failed
21 United Kingdom company whose investors similarly lost all
22 and/or most of their investment due to Mr. Haddow's fraudulent
23 conduct.

24 You can find this discussion in the presentence report
25 Paragraphs 18 to 24.

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1 Mr. Moore utilized an entity called United Property
2 Group to solicit investors before Barworks. For each investor
3 recruited United Property Group received a commission and so
4 did Mr. Moore. Mr. Moore and Mr. Haddow appeared to have had a
5 falling out in 2016. Mr. Moore and United Property Group began
6 another workspace lease project called Our Space, O-U-R, space.
7 In its sentencing submission it cannot currently state whether
8 Our Space has engaged in any investment fraud. In or about
9 January of 2017 Mr. Haddow was publicly reported as being in
10 control of Barworks. Thereafter, there were very few new
11 investors. Then in or about April 2017, the investors stopped
12 being paid commissions.

13 Mr. Moore also founded investment property companies,
14 one called Instant Track Seminars, and another called Instant
15 Access Properties in 2001 and 2002. Seminars taught
16 individuals about investing in real estate and instant access
17 properties facilitated purchase of investment properties.

18 In or about 2008 Mr. Moore and Mr. Haddow were also
19 involved in a hotel investment scheme in which they were
20 soliciting investors to invest in hotels in Slovenia and
21 Morocco. Investors lost money in these projects as well.

22 See paragraph 42 of the presentence report.

23 Mr. Moore has one prior conviction called "misprision
24 of a felony". This conviction related to the conviction and
25 investment in condominiums in Grand Palisades in Lake Austin in

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1 Florida. Probation describes this scheme as similar to that of
2 Barworks.

3 The Court notes that Mr. Moore's conviction is not, in
4 this instance is not a fraud or a theft conviction. And
5 although, the schemes may be similar, the defendant's
6 conviction for a misprision of a felony concealing his
7 knowledge of another's fraud is a different animal, so to
8 speak, a different classification prong.

9 In addition to his real estate related employment,
10 Mr. Moore has been employed in the perfume industry and also
11 rented fitness equipment and tanning beds in a joint venture
12 with his brother. According to the presentence investigation
13 report, Mr. Moore has a negative monthly cash flow of
14 \$2,122.20. Although, it should be noted that included among
15 his assets are three properties in Miami that are rented.
16 These properties may be in the defendant's wife's name. I'm
17 unclear about that. And according to a premarital agreement,
18 may not be able to be claimed by the defendant.

19 By submission dated October 13, 2021, the defense
20 requests a below guidelines range sentence. The defense asks
21 the Court to consider, among other things, Mr. Moore's age, his
22 physical and mental health, his family, the sentence imposed on
23 co-defendants Savra Gata Aura which was a 48-month sentence.
24 And the defense also asks me to consider the harsh conditions
25 of confinement during the COVID-19 pandemic, as well as the

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1 complete inability his family has had to visit him during his
2 term of imprisonment.

3 The defense describes Mr. Moore's home and family life
4 and his prior work history. The defense describes the
5 defendant's work ethic and business acumen. The defense has
6 included as part of its sentence, among other things, the
7 Securities and Exchange Commission interview and Mr. Moore's
8 medical records, Dr. Miriam Kissin's forensic evaluation;
9 letters from defendant's children, Jonathan Moore, Christopher
10 Moore, William Moore and Danielle Davy-Moore, as well as a
11 letter from his wife Karina Pena and from a friend, Shawn
12 Taylor. Defense counsel also included a letter from Cherrie
13 Keene, a former employee. Ms. Keene's letter was originally
14 submitted to the Florida court and Mr. Moore was sentenced on
15 the misprision of felony conviction.

16 Mr. Moore also included a letter. Defense has also
17 included the letter was submitted to probation that contained
18 the defendant's objections to the presentence report and the
19 defense included the government's sentencing memorandum in the
20 case of Savraj Gata Aura, also Mr. Moore's plea agreement and
21 sentencing transcript in his Florida case.

22 The letters of support generically and generally is
23 and oversimplification of the entirety of those records will be
24 included in this sentencing transcript. But in summary, the
25 letters of support are positive in favor of Mr. Moore. They

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1 describe a father who was a role model for his children, who
2 instilled in his children the value of working hard, of helping
3 others and of thinking out of the box. Mr. Moore was described
4 as a kind and compassionate man to people and to animals. This
5 is the summary of these letters in support, also, as a figure
6 head in his family and as a source of inspiration to the family
7 and others.

8 In his own letter the Court dated May 13, 2021,
9 Mr. Moore downplays his role in the offenses of but does
10 apologize to the victims of the offenses. He has also attached
11 a letter from a friend of his, Peter Cookson, C-O-O-K-S-O-N,
12 who speaks highly of Mr. Moore and his ability and talent as a
13 businessman.

14 In the government submission which is dated October
15 20, 2021, the government includes and states that the
16 sentencing guideline range is 324 to 405 months, as contrasted
17 with my calculation of 262 to 327 months. At the same time,
18 the government fully submits that in light of the widespread
19 financial devastation caused by this fraud and over 800 people
20 and Mr. Moore's critical role in the fraud, a substantial
21 sentence of imprisonment of at least 120 months would be
22 sufficient but not greater than necessary to serve the
23 essential sentencing goals in this case. The government argues
24 that Mr. Moore was Mr. Haddow's business partner in the
25 Barworks business. He was also a principal at the company I

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1 referred to earlier on UPG. Mr. Moore negotiated on behalf of
2 UPG to sell Barworks and he caused Barworks agent to sell
3 Barworks product.

4 The government contends, and it was demonstrated at
5 trial, that Mr. Moore played a significant role in recruiting
6 and/or supervising lower level participants. The government
7 states "the defendant's decision to join the scheme was not a
8 one-time mistake or a fleeting lapse in judgment. Time and
9 time again Mr. Moore made conscious choices to continue to
10 facilitate frauds on countless individual victims and to cover
11 up his fraud with lies and deception".

12 The government also states that "part of the reason
13 Mr. Haddow agreed to pay Moore UPG an enormous commission was
14 because UPG came with a built-in stable of employee agents who
15 could immediately pivot to sell the product given to them."

16 The government argues that it has "serious concerns
17 about the defendant's willingness and ability for that matter
18 to continue to defraud investors even after serving his
19 sentence."

20 The government respectfully submits that a significant
21 prison sentence is necessary to truly impose upon Mr. Moore the
22 wrongfulness of his actions and to deter him from future
23 misconduct.

24 Co-defendant Savraj Gata Aura was sentenced to 48
25 months and three years of supervised release by Judge Rakoff.

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1 After pleading guilty to conspiracy to commit wire fraud,
2 Savraj Gata Aura was also required by Judge Rakoff to pay
3 \$39,972,000 in restitution and \$2,988,225 in forfeiture. The
4 government noted that Mr. Savraj Gata Aura proffered with the
5 governmental although, ultimately a cooperation agreement was
6 not entered into. According to the government Gata Aura
7 provided an extensive report of the investor database and bank
8 records in order to help the victims of the scheme ultimately.

9 By letter dated November 12, 2021, the government
10 explains the following:

11 This is a quote. The difference in restitution
12 amounts being attributed to Moore and Gata Aura is based on
13 their different roles in the conspiracy and contribution to
14 victim loss. In his plea agreement Gata Aura agreed to be
15 responsible for restitution in the amount of \$39,972,000 which
16 represents losses from victims recruited by Gata Aura or by
17 subagents from whom Gata Aura received a personal commission.
18 And the government states Mr. Moore on the other hand should
19 be -- this is in differentiating between Gata Aura and
20 Mr. Moore -- the government says that Mr. Moore, on the other
21 hand, should be responsible for the entire losses of the whole
22 scheme because as a ring leader and Barworks equity owner, he
23 played a critical role in crafting and advancing the scheme.

24 With respect to the differential in forfeiture between
25 Mr. Gata Aura and Mr. Moore, the government states the

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1 respective forfeiture amounts attributed to Gata Aura and Moore
2 had based simply on the different amounts of Barworks scheme
3 proceeds that were sent by Renwick Haddow to each co-defendant
4 during the course of their active involvement in the scheme.

5 Gata Aura was paid \$2,988,225. Mr. Moore was paid
6 \$1,599,257.46 prior to having a falling out with Haddow and
7 launching competing co-working place investment project.

8 Co-conspirator Renwick Haddow who testified pursuant
9 to a cooperation agreement at the trial of Mr. Moore has not
10 yet been sentenced. His case remains pending before Judge
11 Swain under docket 19 CR 340.

12 As I said before, I received many letters in, I think
13 it was in excess of 90. By the way, noting that none of those
14 letters mentioned James Moore by name. Some do mention Renwick
15 Haddow, Jonathan Black and or Savraj Gata Aura. Some letters
16 also mention a civil action 17 CV 5386. According to the
17 docket that matter was entitled Zavattiero, v. Barworks and was
18 dismissed in May of 2018 for failure to prosecute by Judge
19 Schofield. And according to the docket sheet as well, it was a
20 related case Almozairee v. Haddow, 17 CV 5386 that was also
21 dismissed by Judge Schofield for failure to prosecute,
22 dismissed on October 12, 2018.

23 These letters, getting back to the letters that have
24 been submitted, are written from people residing all over the
25 world, letters describing how the victims trusted that their

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1 investment was an investment in the United States and how
2 knowing the United States was involved, they were sure it was
3 valid. Many victims describe how profound the losses were to
4 them and to their families.

5 There were some additional quotes in addition to one
6 that I quoted before from one of the letters here. Here are
7 some additional quotes. Here is a letter writer stating that:

8 "I invested my lifetime savings in Barworks. My
9 health started deteriorating and most of the time I remanded
10 loss with lots of negative thoughts. It affected both my
11 family and work life. On many occasions, even thoughts of
12 suicide came to my mind."

13 Another said:

14 "I have lost all my savings as a result of this
15 Barworks fraud."

16 Another said:

17 "Since I became aware of the situation my life has not
18 been the same. I lost a considerable amount of money and since
19 then I have been battling depression."

20 Another says:

21 "I have lost all my life's savings in Barworks scam --
22 capital letters SCAM -- and still paying off the debt. This
23 fraud put me end compression which took a lot of time after
24 doctors' consultancies. We are you living in a trauma since
25 April 2017 when we realized this is a fraud."

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1 Another letter says:

2 "I consider myself as one victim within several
3 victims in the world due to the fraud Ponzi scheme done by
4 Renwick Haddow, owner of Barworks New York. He destroyed
5 everything in my life as well as my family."

6 Just a few more quotes.

7 "The very worst thing is that I decided to invest my
8 mother's money in Barworks too. And I told my son, daughter and
9 sister about the investment. Together we lost over half a
10 million pounds. This was money which had been very hard
11 earned, plus a legacy from my husband to my son and daughter.
12 My daughter is suffering from depression partly because of this
13 and my son feels guilty every single day because he has lost
14 the money his father left him. I had power of attorney for my
15 elderly mother. So I feel I have deprived her of lifetime
16 savings by making a decision to invest in Barworks."

17 Another says that:

18 "Financially, I have never recovered from the loss."

19 Another says that:

20 "Such loss of hard earned and saved monies over my
21 lifetime is devastating considering my age of 77 years has
22 taken a mental toll emotionally. I am humiliated being lied to
23 scammed and defrauded by this man in such a dishonest manner."

24 One more.

25 "This was all my savings planned for my retirement.

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1 This investment was to make sure that I created a secure
2 income, built a foundation for my retirement. Now everything
3 is gone."

4 Finally, by way of the evaluation of 3553(a) factors,
5 I note that Mr. Moore was arrested in the Middle District of
6 Florida on August 27, 2018. He surrendered to the Bureau of
7 Prisons on September 24, 2018, to begin serving an 18-month
8 sentence for his Middle District of Florida misprision
9 conviction under docket 17 CR 187. His Florida term of
10 imprisonment was satisfied on November 1, 2018. He has been
11 continuously incarcerated since September 24, 2018.

12 There is an order of restitution that has been
13 submitted to me and I have signed -- not to jump is ahead --
14 just to tell you that there is a signed order of restitution in
15 the amount of \$57,579,790 to the victims of the offenses
16 charged in Counts One and Two, which Mr. Moore was convicted.

17 The names, addresses and specific amounts owed to each
18 victim are set forth in the schedule of victims and so let me,
19 as I mentioned and referred today in my evaluation of the
20 sentencing factors, of course I also received and referred to
21 the presentence investigation report that on or about April 2,
22 2021, together with the addendum dated August 9, 2021 and the
23 sentencing recommendation approved August 9, 2021.

24 I've also received correspondence, some of which has
25 been referred to dated May 13, 2021, by Mr. Moore, dated

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1 October 13, 2021 from Mr. Grudberg and dated October 20, 2021
2 from AUSA Valadislav Vainberg.

3 I've also received victim impact statements from and
4 other impact statements from probation. The number of impact
5 statements exceeds 90.

6 So, let me ask at this time, Mr. Moore, whether he and
7 his counsel have had the opportunity to read and discuss the
8 presentence investigation report, as well as the addendum and
9 the sentencing recommendation starting with counsel first.

10 Have you each read and discussed with the other the
11 presentence investigation report?

12 MR. GRUDBERG: We have, your Honor.

13 THE COURT: Mr. Moore, did you go over that
14 presentence report with your counsel?

15 MR. VAINBERG: I did, your Honor.

16 MR. GRUDBERG: I would note for the record, judge, you
17 made reference to sentencing recommendation. I don't recall
18 the PSR including a specific sentencing recommendation.

19 THE COURT: They typically don't. They typically
20 don't. And I usually asked ask them not to.

21 MR. GRUDBERG: I just wanted to clarify that for the
22 record. I apologize.

23 THE COURT: Now, do either of you have any remaining
24 objections to the presentence report other than what I've
25 previously noted?

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1 MR. GRUDBERG: Your Honor, I know that you have
2 decided all of the contested issues with respect to the
3 sentencing guidelines calculation. I think our arguments on
4 those are a matter of record. Your Honor has reviewed them.
5 So I don't see a reason to make further argument on this
6 record.

7 THE COURT: Okay. How about Mr. Moore? Any further
8 objections from you?

9 THE DEFENDANT: No, your Honor. I concur with my
10 counsel.

11 THE COURT: Okay. So I will return the presentence
12 report correspondence to the probation department which is our
13 practice. And at this point I am happy to hear from defense
14 counsel in this order, and then from Mr. Moore and then from
15 the government if they wish to be heard.

16 MR. GRUDBERG: Thank you, your Honor.

17 I guess I will start by saying I'm well aware of the
18 passage of time here. I met Mr. Moore shortly after his
19 conviction in June of 2019. We've all lived through several
20 turns in the road here attributable to the pandemic,
21 attributable to Mr. Moore's own circumstances, and frankly, of
22 course, to my own personal medical circumstances.

23 I do thank the Court. I thank Mr. Vainberg and thank
24 Mr. Bell, his former colleague. Most of all thank Mr. Moore
25 for his patience in my own personal circumstances.

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I guess recognizing that the Court has put considerable work into the review of voluminous papers here, I just want to emphasize a few things. Principally among them, your Honor, is that we are here to evaluate as always in the 3553 sentence what sentence will be sufficient but not greater than necessary to achieve the ends of justice, to deter, to punish, to protect the public at large.

I would ask the Court to focus on Mr. Moore's status as a 60-year-old offender who comes before the Court for what I will call his first real second chance. Your Honor's discussed the Florida conviction or Middle District of Florida conviction. I will address it briefly and I emphasize his age, not just to suggest that he is somehow infirmed or enfeebled. In spite of his medical challenges, I think we all agree he is in pretty good shape. I suggest instead, judge, that at 60 years he has lived a long public and legitimate business career.

As the Court recounted, he has been involved in several in entrepreneurial businesses selling real products to real people, literally to thousands of customers over the years. This is not to minimize the conduct set out in the trial over which your Honor presided, but I would bring to the Court's attention a long career lived in ways that in spite of his prior association with Mr. Haddow that was emphasized at trial, he has no prior scrapes either with criminals or

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1 frankly, with regulatory authorities in a long successful and I
2 would emphasize public business career.

3 I recognize, of course, as your Honor has stated, that
4 there is the prior felony conviction. I won't belabor it. I
5 know that the Court is well familiar with the papers. I would
6 though emphasize that in spite of his status as a felony
7 conviction and in spite of a serious sentence imposed by the
8 district judge down there, I think for a number of reasons that
9 item of criminal history seriously overstates the conduct
10 involved and his criminal history as such.

11 Again, your Honor knows what misprision is. It does
12 address and relate only to his failure to report another
13 person's criminal conduct. Mr. Moore's role in that series of
14 transactions was to sell real brick and mortar condominiums to
15 real buyers in the 2008 financial crisis. That project, like
16 many others, failed. His erstwhile partner was not convicted
17 but was involved with the series of bank fraud which Mr. Moore
18 had nothing to do. But I would emphasize to the Court that
19 those apartments are real. They're up and running to this day.
20 They're two miles from the front gates of Disney World and
21 Mr. Moore and his colleagues in the UK sold, again, real
22 investments to real people, some 1700 of them.

23 I'd also like your Honor to discuss what I think has
24 been a point of emphasis in the government's sentencing papers.
25 And that is to suggest that Mr. Moore in his association with

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1 Mr. Haddow and otherwise, is in some sense some kind of
2 recidivist fraudster. Again, he stands now before the Court
3 for his second sentence. But in connection with two unrelated
4 offenses, both of which were complete in terms of their conduct
5 before he was arrested on that. This is his first second
6 chance, so to speak. The room to invest hotel business that
7 Mr. Haddow did testify about, there is no documentary evidence
8 of Mr. Moore being a partner in that. He did come to Mr.
9 Haddow with an opportunity that he wished Mr. Haddow to pursue
10 with respect to marketing a potential hotel property in
11 Barbados. It had not yet been constructed but it is not
12 unusual for investments like that to be sold pre-construction.
13 Again, there is documentary evidence of any receipt of proceeds
14 by that in connection with Slovenian properties or anything
15 else.

16 With respect, as your Honor observed, to the Our Space
17 investment that was organized in the aftermath of Mr. Moore's
18 involvement with Barworks, I would emphasize a couple things.
19 one, the government's own acknowledge. As your Honor pointed
20 out, that they're unable to say that this was a fraud. But
21 also Mr. Moore's own removed from the events of that promotion
22 because it was really hardly up and running before he was
23 arrested in connection with his Florida situation.

24 Finally, with respect to the Lake Austin property
25 again, I won't belabor, with regard to Mr. Gata Aura, I

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1 recognize again that the Court has reviewed or initial
2 submission on that and that the Court put questions to the
3 parties with respect to the differences in the guidelines
4 calculation. I would submit in general, your Honor, as I've
5 argued in our papers that Mr. Gata Aura by all objective
6 measures was a more culpable participant in the Barworks fraud
7 in terms of his direct involvement and lies to, personal lies
8 to investors in the business. He was there throughout the
9 course of Mr. Haddow's fraudulent scheme. I should say their
10 shared fraudulent scheme. He started with the Bitcoin scam
11 prior to the launch of Barworks and continued to the very
12 endgame of Barworks and then he covered stories with
13 Mr. Haddow.

14 I do recognize that the system credits acceptance of
15 responsibility and discount is in order and I'm sure that Judge
16 Rakoff did consider that. But I would submit to the Court,
17 that that order of magnitude and we can only guess about
18 Mr. Haddow's own sentence and it is, of course, going to be
19 affected by Section 5K cooperation credit. Nevertheless, he is
20 the architect of the scheme. He is the real recidivist here.
21 And I think it is likely that he will not receive much
22 additional time when sentenced by Judge Swain.

23 Briefly, with respect to the victims, your Honor, I
24 will say only this. Mr. Moore did choose to exercise his right
25 to defend himself at trial. It was my perspective and my

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1 advice to him that under the circumstances having defended
2 himself and indeed, as the Court mentioned, he did make
3 reference to, in his personal letter to the Court, with respect
4 to his remorse for those victims. But it is generally my
5 approach, your Honor, to recognize the importance of the voice
6 of victims, but rather than to comment on or participate in
7 their voice, simply to allow them to play their role and to
8 speak their truth to the Court. That was our approach here.

9 Finally, with respect to the nature of time that
10 Mr. Moore has spent in incarceration, I recognize that many of
11 the factors that we have emphasized to the Court are nobody's
12 fault. They To COVID. they relate it his emotional and
13 psychic experience of symptoms for which he was referred to
14 Devens and to Butner. And again, with the circumstances
15 removed from his support network in the UK and from his wife,
16 given her own family challenges, it has been a difficult time
17 for him, anxious, isolated and lonely. Again, I recognize
18 that's not part of the program but if what we're focused on
19 here, Judge Berman, is the effect on a human being of the
20 experience of incarceration and what that might mean in terms
21 of lessons learned and the likelihood of recidivism.

22 Respectfully disagreeing with my colleague who
23 observed that four years is somehow a slap on the wrist, I do
24 think he has served very significant time so far and just ask
25 the Court again to focus on that parsimony clause that that

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1 punishment is sufficient but not greater than necessary.

2 I know that Mr. Moore does wish to address the Court.
3 So unless your Honor has some questions for me, I would defer
4 to him.

5 THE COURT: Mr. Moore.

6 THE DEFENDANT: Thank you, your Honor.

7 I appreciate the seriousness of today and I'd like to
8 start by reading.

9 THE COURT: A few things. I think he is in a venue
10 that has got an echo to it. It sounds like, I am hearing what
11 the court reporter is hearing. So, if you could speak, I would
12 suggest, slower, particularly, slower and if you can a little
13 bit louder.

14 Is there a microphone there or is it --

15 THE DEFENDANT: I don't see one. So, I guess it's
16 built-in. At the risk of standing too close, how is that?

17 THE COURT: Well, that is better. We can't see you as
18 well but I think for the purposes of the court reporter, we see
19 you well enough and that is much more likely to lead to a very
20 accurate record.

21 THE DEFENDANT: Whatever you need to get the best
22 result, your Honor.

23 THE COURT: Well, that's excellent.

24 THE DEFENDANT: Okay. I'll start afresh.

25 Your Honor, I appreciate the seriousness of today and

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1 the task ahead of you. I'd like to start by reiterating my own
2 reserved apologies to the victims and the distress that this
3 has caused them. As for me, I've definitely learned a tough
4 lesson as a result of the substantial length of time I've spent
5 in pretrial prisons now in my fourth year of incarceration.
6 For anyone who suggests that my experience is a slap on the
7 wrists, I respectfully disagree and I'm asking your Honor here
8 today to consider the time I've already spent in prison
9 sufficiently deterrent and punishment for my error.

10 Your Honor, it's been brutal and soul destroying.
11 I've gone from literally fighting for my life in some instances
12 in New York, to being punished by the endless and pointless
13 boredom of 23 hour a day lockdowns in other locations. I've
14 already done some very tough time. I certainly don't need any
15 more of either experience in order to have learned my lesson.

16 The government claims that a business I helped to
17 start, Our Space, was modeled on Barworks, which it wasn't. it
18 was modeled on Wing Work, which was the seventh most valuable
19 business starter in the United States at the time, valued at
20 \$16 billion.

21 The government also erroneously states that I
22 continued with Lake Austin after discovering the misdeeds of --
23 That's simply not true, your Honor. Neither does it make any
24 sense. My company's role as marketer had come to an end at
25 least two years prior.

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1 Coming now to room to invest also mentioned by
2 Mr. Haddow and the government, my involvement was zero. And
3 any and every regard other than to introduce a product to
4 Mr. Haddow and of course in his imagination. In short, your
5 Honor, I am here today or should be, only for my very brief
6 role in Barworks, which in any event was substantially less
7 than Mr. Haddow originator and driving force or his real
8 business partner and right-hand man, Mr. Gata Aura, in stark
9 contrast to the serious fraudster that the government seeks to
10 paint me as.

11 For over 35 years I've invested my time building up
12 well-known respected grand leading businesses, your Honor.
13 I've helped create over eight thousand full-time jobs between
14 the United Kingdom and the U.S.A., over 50,000 part-time jobs,
15 required over 50 million happy retail customers for those
16 businesses. I'm proud of my past achievement, your Honor, from
17 starting my business life as a 22-year-old featured on the
18 finals of an apprentice styled TV show in the UK, I help build
19 up three markets leading businesses in areas as perfume,
20 software and finally, real estate education, all of which were
21 problem free from a regulatory perspective. In the software
22 business the U.S. governments itself was one of our main
23 clients.

24 Education however became the pinnacle of my success
25 today with my flagship business, Inside Track Seminar, helping

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1 hundreds, if not thousands, of professional people retire early
2 and/or wealthy in many instances. While being retired and away
3 from the business almost four years myself as one of the around
4 120 real estate developers that my management team vetted and
5 dealt with, unfortunately, was Paul Oxwood, which led to my
6 original plea to misprision. The time -- inside track as a
7 result of the great recession led to my introduction to Mr.
8 Haddow because I'll no longer have a sales channel for real
9 estate developments myself not even caring of that introduction
10 until he presented to me with -- in late 2015 because of the
11 difficulty I now find myself in.

12 When I met him he was definitely blinded by the
13 staggering success of -- work at the time. However, my first
14 and only business relationship with Haddow ended almost as soon
15 as it had begun with me moving on to help form Our Space, a
16 business itself modeled on Weworks -- and Barworks. And with
17 its structure designed by leading UK financial services lawyers
18 and complying with all local regulations. In any event,
19 because of my arrest I was prevented from participating beyond
20 the initial offerings of the ventures in the business and the
21 successful opening of its first office location.

22 So, hopefully you can see in determining my rightful
23 sentence, your Honor, not a serial fraudster but a serial
24 entrepreneur who has successfully navigated, negotiated with
25 and dealt honestly with thousands of people throughout his 35

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1 years plus business career.

2 In closing, your Honor, I'd like to thank you for
3 considering all the factors in my case including the human ones
4 I mentioned here.

5 I'd also especially like to thank my wife, Karina, for
6 patiently standing by me and believing in me throughout this
7 nightmare. Also, of course, my children, Daniel, Jonathan,
8 Christopher and William, who've individually and collectively
9 supported me in valuable ways and never stopped believing in my
10 good character.

11 After almost four years, kids, I hope to see you again
12 soon.

13 Finally, your Honor, I'm in your hands. I sincerely
14 hope that you can sentence me for the true minimal extent of my
15 error as a whole person and not as the evil criminal mastermind
16 I seemingly to present by the government and the punishment you
17 decide upon is more in line with the very short interval of
18 time I was involved with Haddow before completely cutting ties
19 with him, rather than that requested by the government.

20 Naturally, your Honor, you'll fully appreciate and
21 understand that I hope after almost four long years that in
22 itself brings you to determine that my punishment to date is
23 sufficient deterrent. The substantial time I've already served
24 has given me the message loud and clear and that you sentence
25 me today to time served, please, your Honor.

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Sentence

1 Thank you.

2 COURTROOM DEPUTY: Judge Berman, sorry to interrupt.

3 I sent you an email, if you have a minute.

4 THE COURT: I did see it. Yes.

5 So what Christine is referring to is the Pennsylvania
6 BOP is urging us to move along, I guess. I don't feel any, I
7 think we'll move at the pace that is appropriate. This is a
8 serious occasion today and we have to take the time that's
9 necessary to come up with a fair sentence.

10 Mr. Vainberg.

11 MR. VAINBERG: Your Honor, the Court is very
12 intimately familiar with the facts of this case as evidenced by
13 your Honor's recitation and your presiding over the trial.
14 I'll be fairly brief. I do want to address the government's
15 specific concerns about specific deterrence in this case. And
16 the opportunity the Court has to keep the community safe from
17 Mr. Moore when he does leave prison.

18 As your Honor knows, Mr. Moore was not a young man in
19 his 20s who joined this scheme as some sort of fleeting
20 mistake. As has been made clear, he was in his 50s. He was
21 skilled. As he has just told you, he spent over 30 years
22 honing his skills on how to sell real estate to investors.
23 He's very good at it. Part of what makes him very good is his
24 ability to craft and design investment projects that would
25 entice investors to invest their hard earned money. Your Honor

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1 has seen that Mr. Moore was not deterred by close to a decade
2 of experiences in which investors lost money. He was not
3 deterred by his affiliation with Mr. Haddow in Room to Invest
4 which Mr. Haddow testified investors lost money. He knew
5 exactly who he was dealing with because he then saw Mr. Haddow
6 be civilly prosecuted by the SCA for running a 60 million pound
7 Ponzi scheme in the United Kingdom. He was not deterred by
8 teaming up with a developer in the Lake Cause Austin case who
9 had promised investors' money would stay in escrow, when in
10 fact they were being paid to Mr. Moore. That's the deposits
11 that should have stayed in escrow that were paid instead to
12 Mr. Moore. He was not deterred when he found out that
13 Mr. Haddow had a boiler room in New York and was about to
14 launch a new business called Barworks. Instead, he had reached
15 out to try to join that process. He saw how much money it
16 could bring.

17 You have seen emails, your Honor, during trial in
18 which he told Mr. Haddow that he wasn't in it to be a glorified
19 sales agent, someone like Mr. Aura, for example. He wanted to
20 be partner. And what Mr. Moore did to advance this scheme
makes him the second most culpable person who will be sentenced
21 in this case after Mr. Haddow.

23 Mr. Moore helped design the scheme in his own words by
24 changing the concept of the investment from investment into the
25 stock of Barworks into leases so that people would have a

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1 feeling that they're actually investing workspace leases in
2 Manhattan. Of course, what they were given were certificates
3 that were worthless pieces of paper with numbers on them. He
4 came up with that concept according to himself.

5 He also designed the marketing program and wealth
6 builder concept which raised the returns that people were
7 promised to 16 percent a year guaranteed if they would invest
8 as much as \$100,000. He took credit for that in e-mails over
9 and over and that was successful.

10 And third, he knew that Mr. Haddow could not use his
11 own name and that the value they would bring -- again, this all
12 over emails -- was acting as a front and by bringing UPG in.
13 He tried to expand Barworks internationally with e-mails with
14 potential agents and partners who would open up international
15 Barworks locations. E-mails showing every investor coming in
16 on UPG. He knew the frauds and he was extremely callous in
17 participating in this fraud.

18 What do I mean by that? It wasn't that he just knew
19 that some money was coming in. He knew about specific
20 investors. Your Honor may remember at trial one investor,
21 Julian White, testified, a victim, about investing six hundred
22 thousand dollars in the scheme and that he had done he could
23 with his due diligence. He looked at LinkedIn pages for
24 Jonathan Black that were fake. He sent emails to the UPG agent
25 who recruited him, who had assured him that UPG's principals

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had traveled to New York, met with Jonathan Black, done their due diligence and found that short of a World War III scenario, this was a safe bet. Then he asked to speak to Jonathan Black in person. And of course, Mr. Moore and Mr. Haddow and other principals set that up so that Mr. Haddow masqueraded as Jonathan Black.

You've seen in our submission what happened right after that call. Mr. Haddow calls out Jim Moore and he testifies, I was very excited because this guy sounded very interested. It looked like he was going to potentially invest upwards of six hundred thousand, maybe even more. He was offering maybe up to a million dollars. So I was very excited that I had made a big contribution in this conversation. So I rang up Jim and said to him that Jonathan has got off the phone with Julian White and he's had a really good call.

And, your Honor, remember they're giggling about this -- according to Mr. Haddow's testimony -- and Jim's immediate response was, you mean you did? I said no, no. Jonathan did. And then I giggled and laughed about it a little bit and we moved on to another subject.

Your Honor has also seen that the defendant has not shown any real sincere remorse about his role in this offense. He's apologized just minutes ago for the victims for the distress this has caused them. What is the "this"? He has not spoken about his own role in the conduct. He has not

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1 acknowledged his own role in crafting the scheme and selling
2 the scheme and pushing these lies. And he's complained to your
3 Honor about being punished "by endless boredom" in prison. But
4 as your Honor's seen, there are over 800 people who are being
5 punished every day who are facing depression, medical
6 illnesses. And that punishment is not going to end when
7 Mr. Moore exits prison. Their punishment will stay with them
8 for the rest of their life.

9 So, your Honor, the government believes that a
10 significant sentence of incarceration is necessary in this case
11 to deter Mr. Moore and to protect the victims from this --
12 offenses.

13 I'll say one last thing. As you've seen the way
14 Mr. Moore operates, his name is not going to be on any offering
15 memorandum in the future if he decides to run another
16 investment scene. He is not the UPG agent on the phone giving
17 his name. He is able to operate in this world without the
18 victim even knowing who he is. That's why the victims, in
19 writing their letters, they know about -- because of the
20 publicity. They didn't know that there was a Jim Moore behind
21 the scenes earning 60 percent commissions from UPG, crafting
22 the materials and supervising the operation on the UPG side.

23 So for that reason, nothing short of a significant
24 prison sentence in the government's view will keep the public
25 safe from this defendant.

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1 Thank you, your Honor.

2 THE COURT: Okay. So now I am going to impose the
3 sentence and I am going to adopt first the findings of fact in
4 the presentence report with, if any changes that have been
5 mentioned.

6 And I'll ask the defense if there are any further
7 objections to that report?

8 MR. GRUDBERG: None other than the ones we've briefed,
9 your Honor.

10 THE COURT: Mr. Moore, any further objections?

11 THE DEFENDANT: (Inaudible).

12 THE COURT: Anything further from the government?

13 MR. VAINBERG: No, your Honor.

14 THE COURT: I am going to preview the sentence and
15 then impose it. I'll make this comment at outset. I have been
16 through the 3553(A) factors and I don't want anybody to
17 misunderstand. Almost all of them almost all of them argue for
18 a significant sentence. So, it's not one. It's not two. Not
19 even three.

20 The nature and the circumstances of the crimes
21 convicted are breathtaking in nature. They swindle beyond --
22 you know I have been a judge for a long time and I've seen a
23 lot of swindles, so to speak, but this one is breathtaking.
24 The fictitious head of the company, extraordinary.

25 also, the history and characteristics of Mr. Moore, he

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1 is an experienced financier, a dealmaker. He knows federal
2 regulations are at play in these kinds of matters. And you
3 would think that someone with his experience would know better,
4 know substantially better than to participate in this
5 conspiracy.

6 So I think it's a very serious, two very serious
7 crimes. The conspiracy itself by the way, the conspiracy, of
8 course, which has been proven, brings in other people and other
9 people's activity. I think the sentence needs to reflect the
10 very great seriousness of the offense. A significant sentence
11 is critical to promote respect for the law and to provide a
12 just punishment and to afford adequate deterrence to this
13 breathtaking criminal conduct, to protect the public to be sure
14 from further crimes of the defendant. Not so much to provide
15 the defendant with a needed educational or vocational training
16 or medical care or other correctional treatment in the most
17 effective manner. Although, we have made sure that his
18 physical and mental health concerns could be addressed as much
19 as possibly could.

20 So, I've looked at the kinds of sentencing available.
21 I've looked at the sentencing guidelines and the range. I am
22 going to impose a sentence that is considerably less than my
23 own computation of the guideline range.

24 The issue of disparities among similarly situated
25 defendants, the fact that different judges approach things in

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1 different ways, that's somewhat significant. But what really
2 is significant as has been said by several people, is that
3 there's a vast difference between someone who pleads guilty and
4 who endeavors to cooperate even though there is no cooperation
5 agreement.

6 And someone who goes to trial, which Mr. Moore has
7 every right had every right to do but he also exposed all of
8 this unbelievable and I say again breathtaking swindle behavior
9 for everybody to see, I think that there's a world of
10 difference between Mr. Moore and someone who has pled guilty.
11 Of course we do need to provide for restitution.

12 So all of that, where that gets me is I intend to
13 impose a sentence of 140 months of incarceration. The offense
14 level is 38 and the criminal history category is two. That is
15 well below the lowest end of that guideline range which is 262
16 months to the top of the range which is 327 months.

17 I intend to impose a term of supervised release
18 following incarceration of three years subject to the mandatory
19 conditions which are that he not commit another federal, state
20 or local crime;

21 That he not illegally possess a controlled substance;

22 That he refrain from any unlawful use of a controlled
23 substance.

24 He is required to submit to one drug test within 15
25 days of placement on supervision and at least two unscheduled

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1 drug tests thereafter, which may be directed by the probation
2 officer.

3 In addition, he'll be required to comply with what are
4 called the standard conditions numbers one through 12, which
5 are set forth in pages 44 and 45 of the presentence report, and
6 which include, among other things, that he may not possess and
7 must not possess, own or have access to a firearm, ammunition,
8 destructive device or dangerous weapon or anything that was
9 designed or was modified for the specific purpose of causing
10 injury to another person.

11 And plus the following special conditions, which the
12 Court finds are reasonably related to the factors set forth at
13 3553(a) (1), (A) (2) (B), (A) (2) (C), (A) (2) (D) in which
14 the Court also finds involve no greater deprivation of liberty
15 than is reasonably necessary for the purposes set forth in
16 Sections 3553(a) (2) (B), (A) (2) (C) and (A) (2) (D), and are
17 consistent with pertinent policy statements issued by the
18 Sentencing Commission at 28 U.S.C. Section 994 (A).

19 And these are the special conditions, that Mr. Moore
20 be supervised in his district of residence, that report to the
21 probation department within 48 hours of release from custody
22 and that he participate in a program approved by the probation
23 office for substance abuse, which program shall include testing
24 to determine whether he has reverted to the use of alcohol or
25 drugs. He may be required to contribute to the cost of

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1 services rendered by a co-payment in an amount to be determined
2 by the probation officer based on such factors as ability to
3 pay or availability of third-party payment.

4 He is also required to participate during the term of
5 his supervision in weekly individual, therapeutic counseling by
6 a licensed therapist. And here too, he may be required to
7 contribute to the cost of services rendered as by a co-payment
8 in an amount to be determined by the probation officer.

9 He shall also cooperate with the Department of
10 Homeland Security, Bureau of Citizenship and Immigration in
11 connection with any proceeding -- to determine his status in
12 the United States and he'll be required to abide by BCIS rules,
13 regulations and laws.

14 I am imposing a fine in the amount of \$50,000. The
15 guideline range fine is \$50,000 to \$115,169.58.

16 Probation I noticed did not recommend a fine. I think
17 a fine required.

18 Restitution, I said to you before that I signed the
19 scheduled restitution sum \$57,579,790.

20 During the term of incarceration if defendant is
21 engaged in a BOP non-UNICOR work program, he shall pay \$25 per
22 quarter toward the criminal financial penalties. If the
23 defendant participates in the BOP's UNICOR program as a grade
24 one through four, he shall pay 50 percent of his monthly UNICOR
25 earnings toward the criminal financial consistent with BOP

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1 regulations at 28 CFR 545.1 1.

2 If any portion of the financial penalties remains
3 unpaid at the time of his release from incarceration the
4 remainders are to be paid during the term of supervision in
5 monthly installments of 20 percent of gross monthly revenue.

6 In concluding this schedule, I've considered the
7 factors set forth at 18 U.S.C. Section 3663 (A) (1) (B) (i) and
8 18 U.S.C. Section 3664 in imposing this restitution
9 requirement.

10 I've considered the amounts of loss sustained by the
11 victims as a result of the offense, the financial resources of
12 defendant, financial and earning ability of defendant and his
13 dependents and such other factors, as I've deemed appropriate.
14 The forfeiture in the amount of \$1,599,257.46, a special
15 assessment of \$200 is which is mandatory pursuant to 18 U.S.C.
16 Section 3013.

17 Briefly, the reasons for this sentence, the sentence
18 is way below the guideline range of 262 to 327 months. At 140
19 months it is way lower than the lowest end of that guideline
20 range. The offense level is 38. The criminal history category
21 is two. And I believe that this sentence is appropriate given
22 the seriousness of the offense and the international scope, its
23 blatancy and I think it needs for the punishment and deterrence
24 and the other factors of 3553(a) which I mentioned before and
25 incorporate here by reference.

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1 I've considered all of them, the nature and
2 circumstances of the crimes, Mr. Moore's history and
3 characteristics. I've imposed the sentence to reflect the
4 seriousness of the crimes, to promote respect for the law and
5 to provide a just punishment, to afford adequate deterrence to
6 criminal conduct, to protect the public from further crimes of
7 the defendant and to provide the defendant with needed
8 educational or vocational training, although, that hardly seems
9 necessary, but medical care, yes, if need be or other
10 correctional treatment in the most effective manner.

11 So I will give the opportunity to defense counsel,
12 Mr. Moore and the government to say anything they want to add
13 before I actually impose that sentence.

14 MR. GRUDBERG: Your Honor, I don't know the Court's
15 practice with respect to making recommendations or not to the
16 Bureau of Prisons with respect to possible facilities. If your
17 Honor is so inclined, I would ask the Court to recommend the
18 FCI Miami which is a low security institution, because
19 Mr. Moore's wife does have access to real estate in the Miami
20 area, I think that would best facilitate visitation with him.
21 I believe that's his preference. I would ask him to affirm
22 that. It's been a while since we've spoken about it.

23 THE COURT: I will make a recommendation FCI Miami.

24 MR. GRUDBERG: Thank you, your Honor.

25 THE COURT: You bet.

M21AAMOOS

Sentence

1 Mr. Moore, anything further before I actually impose
2 the sentence?

3 THE DEFENDANT: Nothing that I could say without
4 speaking to counsel first, your Honor.

5 THE COURT: Okay. Mr. Vainberg?

6 MR. VAINBERG: Mo, your Honor.

7 THE COURT: Did you want to speak to counsel at this
8 time?

9 THE DEFENDANT: I would like to if I may, your Honor.

10 THE COURT: I don't know if that can be arranged with
11 Pennsylvania.

12 But Christine or Jessica, do you happen to know if
13 there is the ability to put them in a virtual conference room?

14 COURTROOM DEPUTY: Yes, judge. Chris McShea can do
15 that.

16 MR. MCSHEA: We cannot, actually. Their access is
17 turned off. I can't break them out.

18 THE COURT: Okay. Well, I'm afraid I can't.

19 THE DEFENDANT: Okay.

20 THE COURT: So you can remain seated, Mr. Moore, given
21 the circumstances of where you're located.

22 The guideline range is 262 to 327 months. Having
23 considered the Sentencing Reform Act of 1984, as well as the
24 United States Sentencing Guidelines and, particularly, all the
25 factors at 18 U.S.C. Section 3553(a), it is my judgment that

M21AAMOOS

Sentence

1 you be committed to the custody of the Bureau of Prisons to be
2 imprisoned for a term of 140 months. That is to be followed by
3 three years of supervised release subject to the mandatory and
4 the standard and special conditions that I mentioned before and
5 incorporate that conversation in reference here by reference.
6 That includes weekly therapeutic concerning and cooperation
7 with Homeland Security and the other special conditions.

8 I am imposing a \$50,000 fine. Restitution, I've
9 signed the order that I discussed before with the victims
10 information and addresses. The restitution sum is \$57,579,780
11 and the payment scheduled is incorporated here by reference to
12 the one that I mentioned before.

13 Forfeiture in the amount of \$1,599,257.46, \$200
14 special assessment.

15 And as I stated earlier on at various places in the
16 sentencing, I believe that this sentence is appropriate given
17 all of the factors at 18 U.S.C. Section 3553(a) including
18 without limitation the seriousness of the offenses and needs
19 for punishment and deterrence.

20 Does either counsel know of any legal reason why this
21 sentence should not be imposed as so stated?

22 MR. VAINBERG: None from the government.

23 MR. GRUDBERG: No, your Honor.

24 THE COURT: Then I hereby order the sentence to be
25 imposed as so stated.

M21AAMOOS

Sentence

1 Mr. Moore, you have the right to appeal this sentence.
2 If you are unable to pay the cost of an appeal, you have the
3 right to apply for leave to appeal in forma pauperis. If you
4 request, the clerk of court will prepare and file a notice of
5 appeal in your behalf immediately.

6 Do you understand your appeal rights?

7 THE DEFENDANT: If I understand correctly, your Honor,
8 you're saying that I need to tell you now if I wish to appeal?

9 THE COURT: No, no. I'm not saying that. I'm saying
10 you have the right to appeal. You probably want to discuss any
11 appeal with your counsel. I'm just saying do you understand
12 that you have the right to appeal is really what I'm asking.

13 THE DEFENDANT: Thank you.

14 THE COURT: Does the government need to dismiss any
15 open counts in this case?

16 MR. VAINBERG: No, your Honor.

17 THE COURT: Do you want to add anything to today's
18 sentencing proceedings, starting with the government?

19 MR. VAINBERG: No, your Honor.

20 THE COURT: How about defense counsel?

21 MR. GRUDBERG: Not at this time, judge, no.

22 Thank you.

23 THE COURT: Okay. I think that covers everything.

24 Anything that was omitted in terms of substance in a
25 sentencing proceeding?

M21AAMOOS

Sentence

1 MR. VAINBERG: No, your Honor.

2 We thank you for your time and your attention to this
3 matter.

4 THE COURT: How about defense counsel?

5 MR. GRUDBERG: Your Honor, as we've noted before,
6 other than the arguments we've set forth in the papers, I have
7 nothing to add with respect to today's proceeding.

8 I guess, I have one technical question for Mr. McShea.
9 We've previously discussed the possibility of connecting me
10 with Mr. Moore once the record closes here. I don't know
11 whether that's possible but I thought I'd inquire

12 MR. MCSHEA: I unfortunately don't think that is.
13 They have mag court starting in six minutes and I need to clean
14 the room and get everything ready.

15 MR. GRUDBERG: Understood.

16 MR. MCSHEA: Sorry about that okay.

17 THE COURT: Thank you, Mr. McShea.

18 We've concluded our work for today, everybody, and we
19 are adjourned.

20 Thank you.

21 (Adjourned)